IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21384 of 2004

Between:

Tota Ravinder, S/o. Sattaiah,
Owner & Driver of Lorry Bearing No. APM-5699,

R/o. Pochamma Basthi, Ibrahimpatnam, Ranga Reddy

District.

..... PETITIONER

AND

1 The Collector, CS, RR District at Saifabad, Hyderabad.
2 The Mandal Revenue Officer, Manchala Mandal, Ranga Reddy

District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction particularly one in the nature of Writ of Mandamus, declaring the action of the respondents particularly the 2nd respondent in seizing the petitioner's lorry bearing No. APM-5699, as well as the trial under Section 6-A of E.C. Act before the 1st respondent as illegal, improper, without jurisdiction, violative of principles of natural justice, while issuing a consequential direction to the respondents to release the seized lorry to the petitioner forthwith by accepting the third-party guarantee for the said release.

Counsel for the Petitioner: MR.GANDE.VENKATESWARLU

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

The petitioner is the owner of a lorry bearing No.APM-5699. The lorry was engaged by a customer on hire-basis, to transport certain quantity of rice. On the transit, it was stopped by the Mandal Revenue Officer, Manchal, Ranga Reddy District, and the vehicle together with the stock of 175 bags of 50 kgs each was seized. The petitioner challenges the order of seizure, on the ground of want of jurisdiction for the 2nd respondent.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The 2nd respondent effected seizure of the lorry belonging to the petitioner together with the rice contained in it on 19.10.2004. He filed a report under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act') before the 1st respondent. A reading of the same reveals that the 2nd respondent was informed by the Sub-Inspector of Police, Manchal, to the effect that during his patrolling duty, he noticed the lorry, referred to above, transporting some rice, and that convincing explanation was not given as to the source of it. The Mandal Revenue Inspector is said to have conducted panchanama and seized the rice as well as the vehicle. The relevant portion reads as under:

> "I further submit that the M.R.I. Manchal has conducted panchanama and seized the Rice along with the lorry and handed it over to the S.I. of

Police Manchal for safe cutody under the proper acknowledgment and this office detailed report was submitted along with the copies of the statement of the driver, Panchanama, and acknowledgement receipt with the sample of the rice vide this office Lr.No.C/4061/04 dated 24.09.2004".

From a reading of the same, it is evident that the seizure was effected by the Mandal Revenue Inspector and a report of the same was filed by the 2nd respondent before the 1st respondent. The Essential Commodities Act or any Rules, Control Orders or Regulations made thereunder, do not confer any power on the 2nd respondent or his subordinates to effect seizure. The power of seizure, in such cases, was considered by this Court in ***SHEELA SRINIVAS V. DISTRICT COLLECTOR, KARIMNAGAR.*** It was held that in the absence of specific power, an Authority of Civil Supplies or other department, cannot effect seizure. This writ petition is covered by the said Judgment. Following the same, the writ petition is allowed and the respondents are directed to release the lorry to the petitioner.

The petitioner is already impleaded as one of the parties to the proceedings in 6-A of the Act. The petitioner shall furnish an undertaking before the 1st respondent to the effect that he shall not alienate the vehicle or encumber the same till the disposal of the said proceedings.

The Writ petition is allowed accordingly. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Date: 24th November, 2004

Note: Furnish copy by

25.11.2004.

(B/o.)

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To

1 The Collector, CS, RR District at Saifabad, Hyderabad.
2 The Mandal Revenue Officer, Manchala Mandal, Ranga Reddy

District.

3 2 CCs to the G.P. for Civil Supplies, High Court of A.P.,

Hyderabad (OUT).

4 2 CD copies.